

Board	Author	Bill Number
California Integrated Waste Management Board	Escutia	AB 117
Sponsor	Related Bills	Date Amended
Author	None	April 8, 1997

## BILL SUMMARY

AB 117 would prohibit the operation of a solid waste facility or operation that handles demolition and construction debris, except as authorized by the Integrated Waste Management Act or regulations adopted by the California Integrated Waste Management Board (CIWMB). The bill would require the CIWMB adopt tiered regulations by October 1, 1998, to establish conditions for the operation of these facilities. The bill would also require the CIWMB to provide guidance to local enforcement agencies on implementation of these regulations and to assist in the formation of a working group to develop a model ordinance or best management practices for solid waste facilities that handle demolition and construction debris. The bill would require solid waste facilities or operations that handle demolition and construction waste under a "various location permit" to operate within CIWMB regulations. The bill would exempt regulated surface mining operations from the prohibition and requirement. The bill would also make legislative findings and declarations that amendments to the Integrated Waste Management Act are needed to clarify the intent of existing law that solid waste facilities that handle demolition and construction debris operate in compliance with CIWMB regulations, to the extent required by those regulations.

## BACKGROUND

The author has introduced AB 117 to prevent the reoccurrence of a situation existing in her district. Aggregate Recycling Systems, a business operating in the 6200 block of South Alameda Street in Huntington Park, began operations in late 1993 as a recycler of construction and demolition wastes. In January 1994, following the Northridge earthquake, quake-damaged portions of the Santa Monica Freeway were hauled to this facility. Local residents complain of air pollution (dust) from the rubble and noise from the operation of recycling equipment (crushers). In December 1996, the City of Huntington Park declared this facility to be a nuisance, and operations ceased in March 1997.

Of the 39.8 million tons of solid waste disposed in 1990, about 20 to 30% (roughly between 8 million tons and 12 million tons) was construction and demolition (C&D) waste. The

Departments That May Be Affected		
Department of Conservation, Air Resources Board, Department of Toxic Substance Control; State Water Resources Control Board		
Committee Recommendation	Committee Chair	Date
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CIWMB 1996 market development plan, *Meeting the 50 Percent Challenge: Recycling Market Development Strategies Through the Year 2000*, indicates the CIWMB's goal is, by 2000, to divert 6.2 million tons of construction and demolition materials per year from landfill disposal. To achieve this goal, the Plan indicates that the CIWMB will provide funding to the California Department of Transportation for testing the use of ground asphalt roofing shingles in asphalt and other road products and for expedited development of specifications for use of recycled -content asphalt. Additionally, according to the Plan, the CIWMB will create a wood waste advisory task force to identify barriers to the marketing of wood waste and will continue to target applications for use of ground drywall in compost production and as a soil amendment on agricultural soil and deforested land.

Approximately 500 sites in California receive C&D materials and debris for recycling or reuse. Additionally, about 90 sites receive C&D wastes for disposal at monofills. Further, most of the 289 solid waste landfills accept C&D waste for disposal.

## EXISTING LAW

### The Integrated Waste Management Act:

1. Establishes that responsibility for solid waste management is shared between the State and local governments (Public Resources Code §40001).
2. Prohibits operation of solid waste facilities without permits issued by local governments and concurred in by the Integrated Waste Management Board (PRC §44002 and §44009).
3. Defines "solid waste facilities" as transfer or processing stations, composting facilities, transformation facilities, and disposal facilities (PRC §40194) and exempts from that definition those processing stations whose principal function is to process wastes that have already been separated for reuse and are not intended for disposal [PRC §40200 (b) (2)].
4. Authorizes the CIWMB to adopt implementing regulations (PRC §40502). Under this authorization, the CIWMB has adopted a series of regulations to govern various types of solid waste facilities. (14 CCR § 17000 et seq.). The IWMB has not yet adopted regulations to govern solid waste facilities that manage construction and demolition wastes.
5. Requires the IWMB to develop an integrated waste management disaster plan for diversion or, where absolutely necessary, disposal of solid waste resulting from an emergency. (PRC §43035).

## ANALYSIS

AB 117 would:

1. Prohibit the operation of a solid waste facility or operation that handles demolition and construction debris except as authorized by the Integrated Waste Management Act and CIWMB regulations implementing the Act;
2. Require the CIWMB to adopt tiered regulations by October 1, 1998, to establish conditions for the operation of solid waste facilities and operations that handle demolition and construction debris;
3. Require the CIWMB, in adopting regulations, to provide guidance to local enforcement agencies on conditions and restrictions on the recycling of construction and demolition wastes.
4. Require the CIWMB, in adopting regulations, to assist in the formation of a working group of local enforcement agencies through the California State Association of Counties and League of Cities. This working group, to be formed in conjunction with local construction and demolition industry and engineering contractor representatives, would provide either a model ordinance or best management practices for solid waste facilities that handle demolition and construction debris;
5. Require any solid waste facility or operation that handles demolition and construction debris under a "various location permit" to operate within CIWMB regulations; and
6. Exempt surface mining operations regulated under the Surface Mining and Reclamation Act of 1975 (Public Resources Code §2710 et seq.) from the prohibition and requirements of the bill.

## COMMENTS

The bill might not be necessary. This bill would require the CIWMB to adopt C&D debris regulations by October 1998; through administrative action, the CIWMB has already committed to this date. The CIWMB will start work on these regulations in July 1997 by holding workshops regarding the CIWMB's authority, application of general methodology, and appropriate regulation of C&D operations and facilities.

The bill might expand the CIWMB's regulatory scope. This bill would require the CIWMB, in adopting regulations, to provide guidance to local enforcement agencies on conditions and restrictions on the recycling of construction and demolition wastes. This provision introduces "recycling" as a subject of CIWMB regulations. Because recycling facilities (that is, those

that do not intend to dispose of C&D wastes that have been separated for reuse) may fall outside the scope of CIWMB's regulatory authority, this provision appears to expand CIWMB's regulatory authority to cover C&D recycling facilities. The CIWMB has a listing of over 500 sites within California that receive C&D materials for recycling and reuse.

Further, the bill would require C&D debris facilities that hold an air board "various location permit" to operate within CIWMB regulations to protect nearby residents from any increased air pollution. This provision appears to require CIWMB regulations to address air pollution standards, which is a topic more appropriately addressed by air quality agencies.

The bill might affect other CIWMB activities. The CIWMB's 1996 market development plan identifies C&D materials as a priority material for market development activities. New regulations on C&D debris facilities and operations, particularly those engaged in recycling, may discourage the development of recycling facilities. Further, the CIWMB recently approved an Integrated Waste Management Disaster Plan, as required by PRC §43035. Much of the solid waste that develops after a disaster is C&D waste. The Plan fosters recycling of these wastes whenever possible, but new regulations on C&D recycling facilities may have an adverse effect on the implementation of the disaster plan.

The bill might involve the CIWMB in local land use decisions. The bill would require the CIWMB, in adopting regulations, to assist in the formation of a working group of local enforcement agencies and representatives of local construction and demolition industry and engineering contractor firms. This working group, led by CIWMB, would provide either a model ordinance or best management practices for solid waste facilities that handle demolition and construction debris. The bill is not explicit, but presumably the model ordinance, developed under CIWMB guidance, would address local land use issues.

The bill might prohibit C&D operations between January and October 1998. The bill would prohibit operation of C&D facilities or operations, except as authorized by the Integrated Waste Management Act or implementing regulations. Because the CIWMB has not yet adopted implementing regulations for facilities that handle C&D wastes, no C&D handling activities are explicitly authorized. Therefore, the bill may be read as prohibiting operation of these facilities until the CIWMB adopts implementing regulations.

Technical drafting issues. The bill uses the expressions "debris" and "waste" in different locations, without drawing a clear distinction between the two expressions. Additionally, the legislative intent sections suggest that the CIWMB's regulations will not apply to all C&D debris facilities, but the code sections do not limit the CIWMB's regulatory authority.

## **LEGISLATIVE HISTORY**

AB 117 was introduced on January 13, 1997. As introduced, it addressed permits issued by air quality management districts. The bill was amended on March 10 and again on April 8, 1997. The bill is set for hearing in Assembly Committee on Natural Resources on April 14, 1997.

Support: none of file.

Oppose: none on file.

## **FISCAL AND ECONOMIC IMPACT**

AB 117 would require the CIWMB to incur costs of \$125,000 (2.5 PY) in FY 1997-98 (6 months); \$250,000 (2.5 PY) in FY 1998-99; and \$125,000 (2.5 PY) in FY 1999-2000 (6 months). These costs would be for development of guidance to local enforcement agencies on enforcement of CIWMB C&D regulations; for development of model ordinances or best management practices for C&D debris management; and to enforce the prohibition on C&D facilities and operations. These costs would be borne by the Integrated Waste Management Account.

Additionally, local governments, operating as local enforcement agencies, would incur indeterminate costs to enforce the prohibition on operating an unauthorized C&D debris facility.

As a result of the successful diversion of solid waste from California's landfills, the Integrated Waste Management Account is experiencing declining revenues due to decreased tipping fees. For this reason, less money is available to implement CIWMB programs. Enactment of this legislation could result in less funding for other vital CIWMB programs.